



SACHIDANANDA TRIPATHY

Retired Judge
Senior Legal Consultant

Without Prejudice

To,
Regional Director,
Northern Regional Committee (NCTE),
G-7, Sector-10, Dwarka,
Delhi - 110075

October 24, 2019

Subject: Notice to show cause that why contempt of court and criminal and civil proceedings should not be initiated against you and the others concerned for acting against law and wilful violation of the Fundament Rights of the students, faculty and the recruiters guaranteed under Articles 14, 19 & 21 of the Constitution of India.

Dear Sir,

Under instructions and on behalf of the students and parents of various universities, I am constrained to hereby serve upon you and the others concerned, the following notice:

1. At the outset, it is stated that a large number of students and their families are suffering due to the spreading of misinformation by the NCTE that only NCTE recognized university degree/ diploma/ certificate holders are eligible to be appointed as teachers in schools whereas the true position of law is otherwise, as held by Hon'ble Supreme Court of India in *Basic Education Board, UP v. Upendra Rai & Ors.* reported in (2008) 3 SCC 432 that ordinary educational institutions like colleges and universities do not require any recognition from NCTE.
2. It is stated that because of the spreading of the aforesaid misinformation by the NCTE for its own vested and malafide reasons, number of recruiters are getting misled and deserving students are being deprived of jobs despite clearing the eligibility tests on merits.
3. It is stated that the law is well settled in this regard and in the Upendra Rai case, for the appointment of teachers in government schools, the Hon'ble

Supreme Court held non NCTE diploma holders to be eligible for appointment and NCTE recognised candidates were held to be not eligible by the Apex Court. Relevant portion of the said judgement is produced below for ready reference:

19. A perusal of the NCTE Act shows that this Act was made to regulate the 'teachers' training system and the teachers' training institutes in the country. It may be mentioned that there are two types of educational institutions—(1) ordinary educational institutions like primary schools, high schools, intermediate colleges and universities, and (2) teachers' training institutes. The NCTE Act only deals with the second category of institutions viz. teachers' training institutes. It has nothing to do with the ordinary educational institutions referred to above. Hence, the qualification for appointment as teacher in the ordinary educational institutions like the primary school, cannot be prescribed under the NCTE Act, and the essential qualifications are prescribed by the local Acts and Rules in each state. In U.P. the essential qualification for appointment as a primary school teacher in a junior basic school is prescribed by Rule 8 of the U.P. Basic Education (Teachers) Service Rules, 1981 which have been framed under the U.P. Basic Education Act, 1972. A person who does not have the qualification Assistant Master or Assistant Mistress in a junior basic school.

20. Learned counsel for the respondent then referred to section 12(d) of the NCTE Act which state that the National Council for Teachers' Education established under sub-ection (1) of section 3 can lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in scholls or in recognised institutions. He also invited our attention to section (14)1 of the NCTE Act which state as under:

"14. Recognition of institutions offering course or training in teacher education-(1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as maybe determined by Regulations:

Provided that an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee."

Sub-section (5) of Section 14 states as under:

"14. (5) Every institution, in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under Clause (b) of sub-section (3).

21. *Learned Counsel has also referred to Section 17 (1) and (4) of the NCTE Act. Under Section 17 (1) the Regional Committee if satisfied that a recognition institution has contravened any provision of the Act or the Rules and Regulations, it can withdraw recognition of such recognized institution after giving opportunity of hearing. The consequences of withdrawal of such recognition are given in Section 17 (4) which state as under:*

"17. (4) If an institution offers any course or training in teacher education after the coming into force of the order withdrawing recognition under sub-section (1), or where an institution offering a course or training in teacher education immediately before the appointed date, fails or neglects to obtain recognition or permission under this Act, the qualification in teacher education obtained pursuant to such course or training or after undertaking a course or training in such institution, shall not be treated as a valid qualification for purposes of employment under the Central Government, any State Government or university, or in any school, college or other educational body aided by the Central Government or any State Government."

22. *It may be mentioned that the word "institution" is defined in Section 2(e) of the NCTE Act to mean an institution which offers courses or training in teacher education. Thus, the NCTE Act does not deal with the ordinary educational institutions like primary schools, high schools, intermediate college or university. The word "institution" as defined in Section 2(2) only means teachers' training institute and not the ordinary educational institutions. Hence, it is only the teachers' training institutions which have to seek grant of recognition or continuation of recognition from the Regional Committee. The ordinary educational institutions **do not have to seek** any such recognition or continuation under the NCTE Act. In fact, the NCTE Act does not relate to the ordinary educational institution at all."*

4. It is stated that from a bare perusal of the aforesaid, it is patently clear that NCTE has no jurisdiction over ordinary educational institutions including colleges and universities and it is only the teacher training institute that require to seek recognition from the NCTE however, for oblique and malafide reasons, NCTE is enacting various regulations and issuing public notices, to imply that

NCTE recognition is mandatory for all institutions including colleges, universities etc. for imparting education in teacher training courses which is wholly false, illegal and causing injury to number of students of institutions across the country.

5. It is stated that the law is well established that seeking recognition under Section 14 of the NCTE Act is not mandatory for anyone including schools, colleges or universities, rather in the NCTE Act itself, universities have been recognised to be the examining body for all teacher training courses and consequently, qualifications awarded by universities are *de jure* recognised as teacher education qualification under the NCTE Act for appointment of teachers in Government and all other school and colleges. Relevant provision of the NCTE Act is extracted herein below:

Section 2(d) "Examining Body" means a University, agency or authority to which an institution is affiliated for conducting examinations in teacher education qualifications.

Further, Section 2(m) states as under:

Section 2(m) "Teacher Education Qualification" means a degree, diploma or certificate in teacher education awarded by a University or examining body in accordance with the provisions of this Act.

6. It is stated that the NCTE has no power or function to grant any recognition to the universities in any respect or in any manner – rather universities are empowered by the NCTE Act itself as an examining body for awarding the degree/diploma/certificates in the field of teacher training education. The role of NCTE is recommendatory in nature vis-a-vis the University under which it can make recommendations in the matter preparation of suitable plans and

programmes in the field of teacher education. Reference in this regard can be made to Section 12(b) of the NCTE Act which is extracted hereinbelow for ready reference:

Functions Of The Council:

12(b) Make recommendations to the Central and State Government, Universities, University Grant Commission and recognised institutions in the matter of preparation of suitable plans and programmes in the field of teacher education:

7. It is stated that it is also well established law that a university is a self-regulated autonomous statutory body and the degrees/ diplomas awarded by a university being established by statute are sui-generis valid and does not require any separate recognition or permission from any other authority or council to impart education in any course in any mode throughout the country.
8. It is stated that a university established by an Act of State Legislature is recognised as "university" under Section 2(f) of the UGC Act, 1956 ("**UGC Act**") and is governed by the provisions of the UGC Act and the State Act which vests universities with powers to make rules/regulations for its functioning which have got force of law and overriding effect over other inconsistent laws.
9. It is stated that the students and the universities have got constitutionally protected fundamental right to receive and impart education in all courses of education and throughout the country as guaranteed under Articles 14, 19 & 21 of the Constitution of India. Reference in this regard may be made to the judgment of the Hon'ble Apex Court in the case of ***Maharshi Mahesh Yogi Vedic Vishwavidyalaya v. State of M.P. & Ors., (2013) 15 SCC 677*** wherein the Hon'ble Court held as under:

“80. Having regard to our fundamental approach to the issue raised in this appeal and our conclusion as stated above, we are convinced that the arguments based on the Legislative competence also pales into insignificance. Even without addressing the said question, we have in as much found that by virtue of the amendment introduced to Section 4(1), an embargo has been clearly created in one’s right to seek for education, which is a Constitutionally protected Fundamental Right. Therefore, there was a clear violation of Articles 14 and 21 of the Constitution and consequently, such a provision by way of an amendment cannot stand the scrutiny of the Court of Law. To support our conclusion, we wish to refer to the following decisions rendered by this Court, right from Mohini Jain case, viz.,

- (i) Society for Unaided Private Schools of Rajasthan v. Union of India- (2012) 6 SCC 1*
- (ii) Bhartiya Seva Samaj Trust v. Yogeshbhai Ambalal Patel - (2012) 9 SCC 310*
- (iii) State of T.N. v. K. Shyam Sunder (2011) 8 SCC 737*
- (iv) Satimbla Sharma v. St. Paul’s Sr. Sec. School (2011) 13 SCC 760*
- (v) Ashoka Kumar Thakur v. Union of India - (2008) 6 SCC 1;*

wherein, this Court has consistently held that Right to Education is a Fundamental Right. Thus, our conclusion is fortified by the various judgments of this Court, wherein, it has been held that imparting of education is a Fundamental Right, in as much as, we have held that the establishment of the appellant University was mainly for the purpose of imparting education, while promotion of Vedic learning is one of the primary objectives of the University. Any attempt on the part of the State to interfere with the said main object viz., imparting of education, would amount to an infringement of the Fundamental Right guaranteed under the Constitution. Consequently, the amendment, which was introduced under the 1995 Act to Section 4(1) and also the insertion of the proviso, has to be held ultra-vires.

10. It is stated that the 11-judge bench of the Hon’ble Apex Court in the case of ***T.M.A. Pai Foundation & Ors. V. State of Karnataka & Ors., (2002) 8 SCC 481*** has held that a university is a separate and distinct class being a statutory, autonomous and self-regulating body and a university is empowered under law to give admissions, commence new courses and award degrees i.e. the autonomy of a university cannot be questioned. The Hon’ble Court based its

conclusion on the report of Dr. Radha Krishnan which is considered to be the genesis behind the enactment of the UGC Act observed as under:

"51. A University Education Commission was appointed on 4th November, 1948, having Dr. S. Radhakrishnan as its Chairman and nine other renowned educationists as its members. The terms of reference, inter alia, included matters relating to means and objects of university education and research in India and maintenance of higher standards of teaching and examining in universities and colleges under their control. In the report submitted by this Commission, in paras 29 and 31, it referred to autonomy in education which reads as follows:

University Autonomy - Freedom of individual development is the basis of democracy. Exclusive control of education by the State has been an important factor in facilitating the maintenance of totalitarian tyrannies. In such States institutions of higher learning controlled and managed by governmental agencies act like mercenaries, promote the political purposes of the State, make them acceptable to an increasing number of their populations and supply them with the weapons they need. We must resist, in the interests of our own democracy, the trend towards the governmental domination of the educational process.

Higher education is, undoubtedly, an obligation of the State but State aid is not to be confused with State control over academic policies and practices. Intellectual progress demands the maintenance of the spirit of free inquiry. The pursuit and practice of truth regardless of consequences has been the ambition of universities. Their prayer is that of the dying Goethe: More light or that Ajax in the mist, Light, though I perish in the light.

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The respect in which the universities of Great Britain are held is due to the freedom from governmental interference which they enjoy constitutionally and actually. Our universities should be released from the control of politics.

Liberal Education. -- All education is expected to be liberal. It should free us from the shackles of ignorance, prejudice and unfounded belief. If we are incapable of achieving the good life, it is due to faults in our inward being, to the darkness in us. The process of education is the slow conquering of this darkness. To lead us from darkness to light, to free us from every kind of domination except that of reason, is the aim of education.

52. *There cannot be a better exposition than what has been observed by these renowned educationists with regard to autonomy in education. The aforesaid passage clearly shows that the governmental domination of the educational process must be resisted. Another pithy observation of the Commission was that state aid was not to be confused with state control over academic policies and practices. The observations referred to hereinabove clearly contemplate educational institutions soaring to great heights in pursuit of intellectual excellence and being free from unnecessary governmental controls."*

11. It is stated that under Entry 66 in List I of Schedule VII, the Parliament has enacted the UGC Act, 1956 for coordination and determination of standards in university education and being a special act for universities, the universities are governed by their respective statutes read with the provisions of the UGC Act making them autonomous and self-regulated. It is reiterated that the NCTE Act is enacted to govern only the recognised institutions and has nothing to do with respect to ordinary educational institutions. A bare perusal of the UGC Act ratifies this and makes it clear that promotion and coordination of university education and determination and maintenance of standards of teaching in university is the function of UGC and NCTE has no role to play in it whatsoever. Reference can be made to the provisions of the UGC Act which provide as under:

Section 12 of UGC Act

"12. Functions of the Commission — It shall be the general duty of the Commission to take, in consultation with the Universities or other bodies concerned, all such steps as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, examination and research in Universities, and for the purpose of performing its functions under this Act, the Commission may –

...
(d) recommend to any University the measures necessary for the improvement of University education and advise the University upon

the action to be taken for the purpose of implementing such recommendation;

Section 14 of UGC Act

"14. Consequences of failure of Universities to comply with recommendations of the Commission. - If any University grants affiliation in respect of any course of study to any college referred to in subsection (5) of section 12A in contravention of the provisions of that sub-section or fails within a reasonable time to comply with any recommendation made by the Commission under section 12 or section 13, or contravenes the provision of any rule made under clause (f) or clause (g) of sub-section (2) of section 25, or of any regulation made under clause (e) or clause (f) or clause (g) of section 26, the Commission, after taking into consideration the cause, if any, shown by the University for Such failure or contraventions may withhold from the University the grants proposed to be made out of the Fund of the Commission."

Section 22 of UGC Act

"22. Right to confer degrees. – (1) The right of conferring or granting degrees shall be exercised only by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act or an institution deemed to be a University under section 3 or an institution specially empowered by an Act of Parliament to confer or grant degrees...."

12. Section 12 stipulates that the function of the UGC is to take, in consultation with the universities or other bodies concerned, all such steps as it may think fit for the promotion and co-ordination of university education and for the determination and maintenance of standards of teaching, examination and research in universities, for the purpose of which UGC may recommend and advise universities. Section 14 provides the consequences in case any university fails to comply with the recommendations of the UGC then the UGC may, after taking into consideration the cause shown by the University for such failure withhold from the university, the grants proposed to be made out of the funds of the Commission. Further, Section 22 of the UGC Act empowers the

universities to confer or grant degrees in all courses of education without any restriction or condition as to the mode or place.

13. The aforesaid provisions of the UGC Act makes it clear that the universities are empowered to award degrees in all courses of education by any mode and anywhere in the country and there is no such condition or restriction provided in the UGC Act. You are put to strict proof to show that which provision of the NCTE Act provides the power to regulate the functioning of another statutory body viz. universities or gives you the jurisdiction to arbitrarily declare the degrees awarded under the authority of law as invalid.

14. It is pertinent to refer to Entry 44 in List I of Seventh Schedule (Union List) to the Constitution of India which provides as under:

“44. Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one State, but not including universities;”

The aforesaid provides that it is beyond the legislative competence of the Parliament to regulate the universities. It is respectfully submitted that when regulation of universities is beyond the legislative competence of the Parliament then it naturally follows that no such regulating powers can be delegated to the NCTE and rather, the provisions of the NCTE Act makes it clear, have not been delegated to the NCTE. This is further consistent with Entry 66 of List I of the Seventh Schedule to the Constitution of India under which the UGC has been formed which provides as *“Coordinate and determination of standards in institutions of higher education or research and scientific and technical institutions”*. It is respectfully submitted that there is no

power or provision under the NCTE Act which empowers you or gives you the jurisdiction to invalidate any degree awarded by a statutory body under authority of law. It is respectfully submitted that usurpation of such alleged powers is wholly illegal, unconstitutional and misconceived and amounts to a public officer acting against law.

15. It is stated that the autonomy of the universities established by a State Act has been discussed by the Hon'ble Supreme Court in the case of ***Maharishi Markandeshwar Medical College and Hospital & Ors. v. State of Himachal Pradesh & Ors., (2017) 6 SCC 675*** wherein the Hon'ble Court after discussing the provisions of the State Act held as under:

“23. *After considering the rival submissions, we are in agreement with the appellants that the High Court has not touched upon the core issue relating to the autonomy of Appellant 2 University including its authority to start a constituent medical college, as prescribed by the 2010 Act. Admittedly, Appellant 2 University has been established under the 2010 Act. This Act received the assent of the Governor on 15.09.2010 and was brought into force w.e.f. 16.06.2010. The intendment of the 2010 Act is to provide for establishment, incorporation and regulation of the Appellant 2 University for higher education, to regulate its functioning and for matters connected therewith or incidental thereto...*

...
30. *From the legislative scheme of 2010 Act, it is axiomatic that an independent, autonomous University has been established under the Act. Appellant 2 University, therefore, has all the trappings of a full-fledged University, to not only start imparting education in prescribed courses but also to set up its constituent colleges to effectuate the purpose for which the University has been established. Indubitably, a constituent college of the University would be an integral part of the University. In one sense, an alter ego of the University. A student pursuing education in such a college will be required to appear in the examination conducted by Appellant 2 University and, at the end of the academic year, it is Appellant*

2 University which can confer degrees or diplomas upon such successful students."

16. It is stated that universities are empowered to award the degrees notified u/s 22 of the UGC Act unconditionally i.e. there being no requirement to obtain approval from NCTE or any other authority i.e. State or Central. As such, it is also empowered to impart education in all the courses of education in any mode for which it can award degrees to its pass out students and the same are sui generis valid. Thus, to state that the degrees awarded by the University to students cannot be termed as valid is grossly illegal and contrary to the provisions of law.

17. It is stated that it is trite law that a degree, diploma or any qualification awarded by any university, established under the statute, is automatically recognised and needs no recognition by any other authority. There is catena of judgments of the Hon'ble Supreme Court of India which have held that the qualifications awarded by a university established under a statute is automatically recognised and valid for all intents and purposes. As such, it has already been held in the case of the University that the degrees awarded by the University are self-validating and automatically recognised and do not require approval by any other authority. The Hon'ble Rajasthan High Court in the case of ***Shyam Kumar Vyas & Ors. v. State of Rajasthan & Ors.*** reported in **(2006) 47 AIC 310** while deciding on the question of law that whether a degree or diploma awarded by a university established by law needs any declaration or recognition or equivalence for considering it to be a valid qualification held as under:

“11. Thus, as per the aforesaid decision any degree or diploma or post graduate degree granted by any University set up under a statute in India anywhere has to be accepted as a valid qualification for any purposes where such qualification is required and that cannot be ignored.”

18. The Ministry of Education, Government of India has vide Circular No.F.18-27/70-T.2 dated 20.11.1970 has categorically stated that the degrees/ diplomas awarded by universities in India incorporated by an act of the central or state legislature in India stand automatically recognised by the Government of India for purposes of employment under the Central Government. No formal order recognising such degrees/ diplomas are issued by the Central Government. The Higher Education Department, Government of Rajasthan vide Circular dated 03.11.1999 has also expressly clarified that the qualifications awarded by the universities established under the Central or the State Act shall automatically stand recognised for the purposes of State Government jobs and there is no requirement for issuing any separate orders in respect of the same.

19. It is respectfully submitted that the wide spread misinformation being spread by the NCTE stating that seeking recognition from NCTE is mandatory for imparting education in teacher training courses and that only NCTE recognised students are eligible for recruitment in schools is in gross defiance of the settled law and does not take into consideration relevant laws and facts and is causing injury to the youth of the country.

20. It is submitted that the said spreading of such misinformation by NCTE is in violation of the constitutionally protected fundamental rights of the students

and the education institutions under Articles 14, 19 and 21 of the Constitution of India. As held by the Hon'ble Apex Court in the Maharishi Mahesh Yogi case (Supra), the students have got the Fundamental Right to get education in the course of their choice and from which it follows that the students have also got the Fundamental Right to get education at the place of their choice and also from the educational institution/university of their choice.

21. It is stated that NCTE is continuing to recognise ordinary educational institutions in gross violation of the decision of the Hon'ble Supreme Court acting against Article 14 of the Constitution of India. It is stated that the actions of NCTE suffer from lack of jurisdiction and are therefore, nullity and non-est. As held by the Hon'ble Apex Court in a number of cases that any action taken by an authority without jurisdiction is nullity and void ab initio. Reference in this regard can be made to the judgment of the Hon'ble Apex Court in the case of **Dr. Jagmittar Sain Bhagat v. Dir. Health Services, Haryana and Ors.** reported in **AIR 2013 SC 3060** wherein the Hon'ble Court held as under.

"7. Indisputably, it is a settled legal proposition that conferment of jurisdiction is a legislative function and it can neither be conferred with the consent of the parties nor by a superior Court, and if the Court passes a decree having no jurisdiction over the matter, it would amount to nullity as the matter goes to the roots of the cause. Such an issue can be raised at any stage of the proceedings. The finding of a Court or Tribunal becomes irrelevant and unenforceable/in executable once the forum is found to have no jurisdiction. Similarly, if a Court/Tribunal inherently lacks jurisdiction, acquiescence of party equally should not be permitted to perpetuate and perpetrate, defeating the legislative animation. The Court cannot derive jurisdiction apart from the Statute. In such eventuality the doctrine of waiver also does not apply. (Vide: United Commercial Bank Ltd. v. Their Workmen MANU/SC/0067/1951 : AIR 1951 SC 230; Smt. Nai Bahu v. Lal Ramnarayan and Ors. MANU/SC/0367/1977 : AIR 1978 SC 22; Natraj Studios (P) Ltd. v. Navrang Studios and Anr.

MANU/SC/0477/1981 : AIR 1981 SC 537; and Kondiba Dagadu Kadam v. Savitribai Sopan Gujar and Ors. MANU/SC/0278/1999 : AIR 1999 SC 2213).

8. *In Sushil Kumar Mehta v. Gobind Ram Bohra (Dead) thr. L.Rs. MANU/SC/0593/1989 : (1990) 1 SCC 193, this Court, after placing reliance on large number of its earlier judgments particularly in Premier Automobiles Ltd. v. K.S. Wadke and Ors. MANU/SC/0369/1975 : (1976) 1 SCC 496; Kiran Singh v. Chaman Paswan MANU/SC/0116/1954 : AIR 1954 SC 340; and Chandrika Misir and Anr. v. Bhaiyalal MANU/SC/0328/1973 : AIR 1973 SC 2391 held, that a decree without jurisdiction is a nullity. It is a coram non judice; when a special statute gives a right and also provides for a forum for adjudication of rights, remedy has to be sought only under the provisions of that Act and the Common Law Court has no jurisdiction; where an Act creates an obligation and enforces the performance in specified manner, performance cannot be forced in any other manner."*

9. Law does not permit any court/tribunal/authority/forum to usurp jurisdiction on any ground whatsoever, in case, such a authority does not have jurisdiction on the subject matter. For the reason that it is not an objection as to the place of suing,, "it is an objection going to the nullity of the order on the ground of want of jurisdiction". Thus, for assumption of jurisdiction by a court or a tribunal, existence of jurisdictional fact is a condition precedent. But once such jurisdictional fact is found to exist, the court or tribunal has power to decide on the adjudicatory facts or facts in issue. (Vide: Setrucharlu Ramabhadra Raju Bahadur v. Maharaja of Jeypore MANU/PR/0093/1919 : AIR 1919 PC 150; State of Gujarat v. Rajesh Kumar Chimanlal Barot and Anr. MANU/SC/0672/1996 : AIR 1996 SC 2664; Harshad Chiman Lal Modi v. D.L.F. Universal Ltd. and Anr. MANU/SC/0710/2005: AIR 2005 SC 4446; and Carona Ltd. v. Parvathy Swaminathan and Sons MANU/SC/3938/2007 : AIR 2008 SC 187)."

22. It is respectfully submitted that as per law, all public officers are bound to act fairly, lawfully and justly and by issuing false public notices and spreading misinformation regarding NCTE and its jurisdiction, without considering the relevant laws, the action of NCTE tantamounts to various offences including but not limited to offences punishable under Sections 166, 167, 323, 409, 425, 463, 499 IPC amongst other provisions which provide as under:-

Section 166 - Public servant disobeying law, with intent to cause injury to any person :-

Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both. (Non- Cognizable)

Section 167 - Public servant framing an incorrect document with intent to cause injury:-

Whoever, being a public servant, and being, as [such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record] in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. (Cognizable)

219. Public servant in judicial proceeding corruptly making report, etc., contrary to law.—

Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Section 323 – Voluntarily Causing hurt :-

Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both. (Non-Cognizable)

Section 409 - Criminal breach of trust by public servant, or by banker, merchant or agent:-

Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. (Cognizable)

Section 425 – Mischief :-

Whoever with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief".

Explanation 1.- *It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.*

Explanation 2 - *Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.*

Section 463 – Forgery :-

Whoever makes any false documents or false electronic record or part of a document or electronic record with intent to cause damage or injury], to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied

contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Section 465 – Punishment for forgery :-

Whoever commits forgery shall be punished with imprisonment of either description for a term which may extent to two years, or fine or with both.

(Non-Cognizable)

Section 464 - Making a false document :-

A person is said to make a false document or electronic record -

First- Who dishonestly or fraudulently –

- a) makes, signs, seals or executes a document or part of a document;*
- b) makes, signs, seals or executes a document or part of a document;*
- c) makes or transmits any electronic record or part of any electronic record;*
- d) affixes any electronic signature on any electronic record;*
- e) makes any mark denoting the execution of a document or the authenticity of the electronic signature,*

with the intention of causing it to be believed that such document or pan of document, electronic record or electronic signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondly.--Who without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with electronic signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.--Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his

electronic signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.]

468. Forgery for purpose of cheating :-

Whoever commits forgery, intending that the 3[document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 499 – Defamation :-

Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.

Explanation 1 - It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2 - It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3 - An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4 - No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

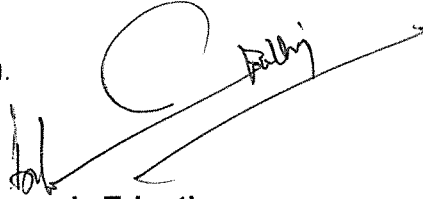
23. In light of the aforesaid, in the interest of justice and fairness and in order to follow principles of Natural Justice, I am instructed to serve upon you the notice to show cause that why criminal and civil proceedings should not be initiated against you for acting against law, spreading false information in public, usurping jurisdiction and causing harm to various students and their families across the country and in case no response is received from you within next 10 days of receipt of this notice, criminal and civil action shall be initiated against you personally and others as may be advised.

This is without prejudice to other rights under law and also without prejudice to the matter being sub- judice in Hon'ble High Court of Rajasthan.

Copy Kept.

Kindly acknowledge receipt.

Thanking you.

A handwritten signature in black ink, appearing to be 'Sachin' or similar, written over a large, stylized circular mark. The signature is written in a cursive style.

Shri Sachidananda Tripathy
Retired Judge,
Senior Legal Consultant & Advocate

Copy to:

1. Chairperson, NCTE
2. Shri Ravi Shankar Prasad, Hon'ble Minister, Ministry of Law & Justice
3. Shri Anoop Kumar Mendiratta, Secretary, Department of Legal Affairs
4. Shri Dr. G. Narayana Raju, Secretary, Legislative Department
5. Shri Dr. Alok Srivastava, Secretary, Department of Justice